

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Samuel Ross	Team: Squad #13	CCRB Case #: 201709640	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> O.L.	<input type="checkbox"/> U.S. <input type="checkbox"/> Injury
Incident Date(s) Monday, 11/13/2017 1:32 PM	Location of Incident: Outside of § 87(2)(b); 113th Precinct Stationhouse § 87(2)(b); § 87(2)(b)		Precinct: 113	18 Mo. SOL 5/13/2019	EO SOL 5/13/2019
Date/Time CV Reported Mon, 11/13/2017 6:40 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 11/20/2017 11:03 AM		

[illegible][illegible]

<b>Witness(es)</b>		<b>Home Address</b>	

<b>Subject Officer(s)</b>	<b>Shield</b>	<b>TaxID</b>	<b>Command</b>
1. Officers			
2. LT David Goldstein	00000	932721	113 PCT
3. POM Christophe Costello	03459	954671	113 PCT
4. POM Tyler Schultz		962092	113 PCT

<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>
1. POF Shayna Robinson	22658	962739	113 PCT
2. POM Hector Rodriguez	05774	963723	113 PCT
3. POM Raul Gabriel	24097	936630	113 PCT
4. POF Margarita Barahona	18563	958286	113 PCT
5. POM Joseph Paige	19528	955288	113 PCT
6. POF Lynn Diliato	22211	952687	113 PCT
7. SGT Charisse Jenkins	01620	940201	113 PCT
8. POF Alicia Commisso	08921	954660	113 PCT

<b>Officer(s)</b>	<b>Allegation</b>	<b>Investigator Recommendation</b>
A.LT David Goldstein	Force: Outside of § 87(2)(b) in Queens, Lieutenant David Goldstein used physical force against § 87(2)(b)	
B.LT David Goldstein	Force: Outside of § 87(2)(b) in Queens, Lieutenant David Goldstein used physical force against § 87(2)(b)	
C.POM Christophe Costello	Force: Outside of § 87(2)(b) in Queens, Police Officer Christopher Costello used physical force against § 87(2)(b)	
D.POM Christophe Costello	Discourtesy: Outside of § 87(2)(b) in Queens, Police Officer Christopher Costello spoke discourteously to § 87(2)(b)	
E.POM Christophe Costello	Force: At the 113th Precinct stationhouse, Police Officer Christopher Costello used physical force against § 87(2)(b)	
F.POM Christophe Costello	Discourtesy: At the 113th Precinct stationhouse, Police Officer Christopher Costello spoke discourteously to § 87(2)(b)	
G.POM Christophe Costello	Abuse: At the 113th Precinct stationhouse, Police Officer Christopher Costello threatened to arrest individuals.	
H.POM Christophe Costello	Discourtesy: At the 113th Precinct stationhouse, Police Officer Christopher Costello spoke discourteously to individuals.	
I. Officers	Abuse: At the 113th Precinct stationhouse, officers did not obtain medical treatment for § 87(2)(b)	
J.POM Tyler Schultz	Discourtesy: At § 87(2)(b), Police Officer Tyler Schultz acted discourteously toward § 87(2)(b)	

## Case Summary

§ 87(2)(b) filed this complaint on behalf of his cousin, § 87(2)(b) on November 15, 2017. He filed with IAB, generating original log #17-45062. The log was then forwarded to the CCRB, where it was received on November 20, 2017.

On November 13, 2017, at approximately 1:32 PM, numerous officers from the 113<sup>th</sup> Precinct, including Lt. David Goldstein, PO Christopher Costello, and PO Shayna Robinson, responded to the vicinity of § 87(2)(b) where a fight had occurred. On the basis of information which § 87(2)(b) provided to Lt. Goldstein, officers arrested § 87(2)(b) and § 87(2)(b) who were both juveniles, for § 87(2)(b). PO Costello also arrested a third individual, § 87(2)(b) for § 87(2)(b).

During the course of § 87(2)(b)'s arrest, Lt. Goldstein pushed her against a truck (**Allegation A: Force**, § 87(2)(g)) and then lifted her into an RMP via the open window, causing her to strike her head on the door frame (**Allegation B: Force**, § 87(2)(g)). Meanwhile, PO Costello took § 87(2)(b) to the ground and said, "I'll fucking arrest you" (**Allegation C: Force**, § 87(2)(g)); **Allegation D: Discourtesy**, § 87(2)(g)).

§ 87(2)(b) and § 87(2)(b) were then transported to the 113<sup>th</sup> Precinct stationhouse, where they were lodged in the juvenile room. There, PO Costello punched § 87(2)(b) (**Allegation E: Force**, § 87(2)(g)) and said to § 87(2)(b) "Stop fucking talking to me like that," and, "Shut the fuck up" (**Allegation F: Discourtesy**, § 87(2)(g)).

§ 87(2)(b)'s family members, including her mother, § 87(2)(b) and several of § 87(2)(b) and § 87(2)(b)'s juvenile classmates visited the stationhouse to inquire about the arrests. PO Costello used the word "fuck" when addressing their classmates (**Allegation G: Discourtesy**, § 87(2)(g)) and threatened to arrest them (**Allegation H: Abuse of Authority**, § 87(2)(g)).

An unidentified individual had earlier informed § 87(2)(b) that § 87(2)(b) had had a seizure while in police custody. Beginning at approximately 1:30 PM, § 87(2)(b) requested numerous times that officers obtain medical treatment for § 87(2)(b). However, officers did not call for an ambulance until nearly 6:00 PM (**Allegation I: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) was transported to a hospital, where PO Tyler Schultz of the 113<sup>th</sup> Precinct, her escort officer, lightly smacked her on the head (**Allegation J: Discourtesy**, § 87(2)(g)).

The investigation obtained two cell phone videos from the scene of the arrests (Board Review 01 and 02).

## Findings and Recommendations

**Allegation A—Force: Outside of § 87(2)(b) in Queens, Lieutenant David Goldstein used physical force against § 87(2)(b)**

§ 87(2)(b) (Board Review 03) stated that when Lt. Goldstein arrived on scene, he immediately approached her and told her that she was under arrest. A large truck was parked on the street nearby. Lt. Goldstein took hold of § 87(2)(b) and pushed her into the space between the truck's cab and cargo bed. As he moved her into this space, he caused her to hit her left knee on the hitch and to hit her head on the truck. She sustained no serious injury but after the incident it was slightly painful to bend her leg and to run. There was no injury where she hit her head.

Lt. Goldstein (Board Review 04) stated that when he approached § 87(2)(b) she walked away from him and maneuvered herself into the space between a truck's cab and cargo bed. She "squeezed" into the space. He did not push her into that area but rather attempted to pull her out. He did not see her hit her head or knee and did not believe she made any contact with the truck in a manner likely to cause an injury. A female school safety agent approached and attempted to convince § 87(2)(b) to come out of the area between the truck's cab and bed. Finally, § 87(2)(b) exited into the open, at which time Lt. Goldstein placed her in handcuffs.

§ 87(2)(b) (Board Review 05) (hereafter referred to as § 87(2)(b)) stated that during the incident she first observed § 87(2)(b) standing in the space between the truck's cab and cargo bed. § 87(2)(b) did not know how § 87(2)(b) came to be in this space and did not see any officer push § 87(2)(b) there. Lt. Goldstein was attempting to pull § 87(2)(b) out in order to handcuff her when § 87(2)(b) approached. § 87(2)(b) was yelling that she had not done anything wrong, and § 87(2)(b) asked § 87(2)(b) to calm down. Finally, Lt. Goldstein was able to handcuff § 87(2)(b). At no time did § 87(2)(b) see any part of § 87(2)(b)'s body strike any part of the truck.

§ 87(2)(b) provided a cell phone video recorded by an unidentified individual from an upper floor of the nearby high school, which captured a portion of § 87(2)(b)'s arrest:



2018-05-08\_14-38-58.mp4

Video Clip #1 – 24 seconds

Original video linked to IA #65 (Board Review 01)

Beginning at the 18 second mark, the video appears to show § 87(2)(b) pulling away from Lt. Goldstein (who wears a white shirt) rather than Lt. Goldstein pushing § 87(2)(b).

§ 87(2)(b) (Board review 06) and § 87(2)(b) (Board Review 07), who later transported § 87(2)(b) from the stationhouse to the hospital, stated that § 87(2)(b) never complained of any injury. Additionally, according to the Prehospital Care Report Summary pertaining to § 87(2)(b)'s later interactions with EMS personnel at the stationhouse (Privileged Documents), "Pt states she did not hit her head she just has a headache." However, according to a medical treatment of prisoner report prepared for § 87(2)(b) at the hospital she complained of unspecified pain to her left leg (Board Review 08).

§ 87(2)(g), § 87(2)(b)

§ 87(2)(g)

**Allegation B—Force: Outside of § 87(2)(b) in Queens, Lieutenant David Goldstein used physical force against § 87(2)(b)**

§ 87(2)(b) stated that after she was handcuffed, Lt. Goldstein brought her to a marked vehicle. Lt. Goldstein tried to open the door but found it locked. The officers then attempted to place § 87(2)(b) into the vehicle via the open rear passenger’s side window, headfirst. Lt. Goldstein lifted § 87(2)(b) with his hands below her armpits and then pushed her through the window from the outside. As he did so, the left side of § 87(2)(b)’s forehead struck the upper part of the window frame.

Lt. Goldstein, PO Costello (Board Review 09), PO Robinson (Board Review 10), PO Margarita Barahona of the 113<sup>th</sup> Precinct (Board Review 11), and PO Alicia Commisso of the 113<sup>th</sup> Precinct (Board Review 12) stated that after § 87(2)(b) was placed inside of an RMP via an open rear door, and without incident, she attempted to escape through an open window. The officers had to pull her back inside. They denied that she struck her head as they pulled her back into the vehicle. § 87(2)(b) also stated that § 87(2)(b) attempted to exit the RMP via a window and that the officers returned her to the RMP without causing any contact likely to result in injury.

§ 87(2)(b) provided a second cell phone video, also recorded by an unidentified individual, and which captured another portion of § 87(2)(b)’s arrest:



2018-05-08\_15-01-22.mp4

Video Clip #2 – 22 seconds

Original video linked to IA #66 (Board Review 02)

Beginning at the 9 second mark, this video clips captures § 87(2)(b) extending her head and shoulders out of the rear driver-side window of a marked SUV as numerous officers gather around her. She screams in protest of her arrest. The video does not show whether or not she struck her head on the window frame.

As noted above, the Prehospital Care Report Summary (Privileged Documents) states, “Pt states she did not hit her head she just has a headache.”

§ 87(2)(g), § 87(2)(b)

§ 87(2)(g)

**Allegation C—Force: Outside of § 87(2)(b) in Queens, Police Officer Christopher Costello used physical force against § 87(2)(b)**

**Allegation D—Discourtesy: Outside of § 87(2)(b) in Queens, Police Officer Christopher Costello spoke discourteously to § 87(2)(b)**

§ 87(2)(b) (Board Review 13) stated that when officers arrived outside of the school, a security guard pointed him out to them. PO Costello chased § 87(2)(b) caught up to him, and threw him to the ground. PO Costello then said, "I'll fucking arrest you."

After two telephone calls to § 87(2)(b)'s mother and a "first please call" letter, § 87(2)(b) provided a phone statement on December 1, 2017. He asked that the undersigned contact his mother to schedule an interview appointment for him, and stated that he would be available at any time on December 4 or 5, 2017. The same day, Inv. Ross again spoke with § 87(2)(b)'s mother, who scheduled an interview appointment for him for December 4, 2017. She received an automated SMS interview appointment reminder on December 2, 2017. However, § 87(2)(b) did not appear at the CCRB on December 4, 2017, and he did not call to cancel or reschedule. Inv. Ross sent a "missed appointment" letter the same day, and on December 5, 2017, Inv. Ross left a voicemail message for § 87(2)(b)'s mother. On December 7, 2017, Inv. Ross again reached § 87(2)(b)'s mother and informed her that § 87(2)(b) had not appeared at the CCRB as scheduled. She stated that she had written down § 87(2)(b)'s appointment information and had provided it to him. She stated that she would speak to him when he returned home in order to determine whether or not he wished to provide a statement, that she would call Inv. Ross on December 8, 2017 to relay his decision, and that she would schedule another appointment if necessary. However, she did not call on December 8, 2017. On December 11, 2017, Inv. Ross sent a "final please call" letter and left a voicemail message for § 87(2)(b)'s mother. As of the writing of this report, neither § 87(2)(b) nor his mother has contacted Inv. Ross.

§ 87(2)(g)

**Allegation E—Force: At the 113th Precinct stationhouse, Police Officer Christopher Costello used physical force against § 87(2)(b)**

**Allegation F—Discourtesy: At the 113th Precinct stationhouse, Police Officer Christopher Costello spoke discourteously to § 87(2)(b)**

§ 87(2)(g)

§ 87(2)(b) stated that upon arrival at the stationhouse, where she and § 87(2)(b) were lodged in the juvenile room, PO Costello frisked § 87(2)(b) and § 87(2)(b) yelled, "Stop fucking touching me." PO Costello then cuffed § 87(2)(b) to the bench and said, "Stop fucking talking to

me like that.” He also said to § 87(2)(b) “Shut the fuck up.” § 87(2)(b) then lay down on the bench. Afterward, while § 87(2)(b) was still lying down, PO Costello punched him on the shoulder. § 87(2)(b) became angry and said, “Why’d you fucking hit me?” PO Costello laughed as though he had been joking, but § 87(2)(b) punched him in the ribs on the right side. PO Costello then punched § 87(2)(b) in the shoulder again. They appeared to be rough-housing.

§ 87(2)(b) stated that when PO Costello frisked him in the juvenile room, he said to PO Costello, “[I’m going to] fucking kill you.” In response, PO Costello punched him on the arm. § 87(2)(b) did not specifically allege that PO Costello used profanity, but, as addressed above, he did not provide a full statement to the investigation.

§ 87(2)(b) (Board Review 14) stated that while officers moved in and out of the juvenile room, the door repeatedly opened and closed. § 87(2)(b) heard § 87(2)(b) say, “Stop hitting me.” Then, as the door was closing, § 87(2)(b) saw an officer raise his arm as if about to strike § 87(2)(b) but the door then closed, and she did not see the impact of any strike. She again heard § 87(2)(b) say, “Stop fucking hitting me.” § 87(2)(b) could not see which officer did this. She also did not allege that any officer used profanity toward § 87(2)(b).

§ 87(2)(b) (Board review 15), § 87(2)(b)’s sister-in-law, stated that from the waiting area she heard the sounds of what she believed to be officers “roughing up” § 87(2)(b) and § 87(2)(b) such as § 87(2)(b) saying, “Don’t touch me,” but she never saw any officer strike § 87(2)(b). Like § 87(2)(b) did not allege that any officer used profanity toward § 87(2)(b).

§ 87(2)(b) (Board Review 16), who was arrested as an adult, stated that he was separated from § 87(2)(b) and § 87(2)(b) at the stationhouse. § 87(2)(b) did not hear any officer use profanity toward § 87(2)(b). However, he heard § 87(2)(b) say, “Help,” and, “Stop.” As such, he believed that officers were beating § 87(2)(b) up, but he could not see what was taking place.

§ 87(2)(b) (Board Review 17), one of § 87(2)(b)’s classmates, stated that § 87(2)(b) was behind a closed door and she could not see him, but she heard him let out a shout which led her to think that someone had struck him. She did not hear any officer use profanity toward him.

§ 87(2)(b) (Board Review 18), § 87(2)(b) never heard any officer use profanity or force toward any arrestee. EMT § 87(2)(b) and EMT § 87(2)(b) stated that they never saw any officer use force or profanity toward an arrestee, but they did not arrive at the stationhouse until almost 6:00 PM.

PO Costello denied ever punching § 87(2)(b) and did not recall ever using profanity toward him. Lt. Goldstein, PO Robinson, PO Barahona, and PO Commisso denied ever seeing PO Costello make any such physical contact with § 87(2)(b).

According to Patrol Guide Procedure 221-01 (Board Review 19), any use of force must be reasonable given the circumstances.

§ 87(2)(g)

[REDACTED]

[REDACTED]

**Allegation G—Abuse of Authority: At the 113th Precinct stationhouse, Police Officer Christopher Costello threatened to arrest individuals.**

**Allegation H—Discourtesy: At the 113th Precinct stationhouse, Police Officer Christopher Costello spoke discourteously to individuals.**

§ 87(2)(b) stated that a group of § 87(2)(b)'s school friends, who visited the stationhouse to inquire about the arrests, asked PO Costello about § 87(2)(b)'s status. In response, PO Costello used profanity. He made statements to the effect of, "He's fucking arrested," "He's staying in fucking jail," and, "Don't fucking worry about it." § 87(2)(b) did not remember PO Costello's exact statements but was sure that he used the word "fuck" multiple times for emphasis. PO Costello also told § 87(2)(b)'s friends that he could arrest them. The group was loud, but § 87(2)(b) did not see them ever behave in a manner which she believed could have led to their arrests. In response to PO Costello's remarks, § 87(2)(b) became upset and chastised PO Costello for speaking to the juveniles in this manner. Afterward, § 87(2)(b)'s friends continued to behave loudly, prompting § 87(2)(b) to ask them to leave for fear that officers would remove them all from the stationhouse.

Although § 87(2)(b) was ultimately uncooperative with the CCRB investigation, in his original complaint to IAB he stated that an unspecified officer said of a group of § 87(2)(b)'s friends, "I don't give a fuck if I have to lock them all up." § 87(2)(b) stated that from inside of the juvenile room, she heard an officer say to her friends, "You all need to fucking leave," and that if they did not leave, they could be arrested. § 87(2)(b) stated that officers complained that the group of juveniles making noise and blocking the waiting area. She also stated that PO Costello said of the group of juveniles, "I don't give a fuck if they go to jail."

§ 87(2)(b) stated that she left the stationhouse for approximately fifteen minutes in order to visit a store across the street. When she returned, officers were repeatedly telling a group of § 87(2)(b)



§ 87(2)(b)'s school friends to calm down. § 87(2)(b) never heard any officer tell them that they could or would be arrested, or use profanity toward them.

§ 87(2)(b) stated that she did not hear any officer use profanity toward her or her schoolmates, or tell them that they could or would be arrested. However, after she briefly exited the stationhouse to speak with other friends who did not come inside, she heard someone in the waiting area asking an officer, "How could you talk to a kid like that?" She did not hear what had been said to prompt this reaction and did not remember which officer was involved. § 87(2)(b) was aware that his schoolmates visited § 87(2)(b) at the stationhouse, but he did not hear any officer speak to them.

The investigation was unable to obtain statements from any of the other juveniles present at the stationhouse (Board Review 20). Believed to be among them were § 87(2)(b) and § 87(2)(b) in addition to other, unidentified individuals.

EMT § 87(2)(b) and EMT § 87(2)(b) stated that as they attended to § 87(2)(b) the crowd in the waiting area was very loud. EMT § 87(2)(b) stated that their volume made it difficult for him to perform his duties. EMT § 87(2)(b) went out to the waiting area and asked the crowd gathered there to calm down. Both EMTs stated that officers asked members of the crowd to lower their volume multiple times, and that the crowd members did not adjust their volume. Neither EMT recalled if any officer told any of the crowd members that they could or would be arrested for any reason. They also did not see any officer use profanity toward anyone in the waiting area.

According to PO Costello, the crowd members gathered in the stationhouse waiting area became boisterous and began to yell. Someone informed PO Costello that the desk sergeant had told the members of the crowd that if they continued to behave that way, they would need to leave. PO Costello did not remember who told him this and did not recall which sergeant was at the desk. Further, each time PO Costello walked by the lobby on his way from the juvenile room to the arrest processing area, the members of the crowd would yell at him, including using obscenities. PO Costello approached and told them that if they continued to act in this manner, they would be escorted out, and that if they refused to leave, they would be arrested. PO Costello believed they could have been arrested for disorderly conduct if they refused to depart. PO Costello did not recall if he was generally addressing the entire group or any specific individual or individuals. PO Costello did not recall ever using profanity toward any member or members of the crowd.

The relevant 113<sup>th</sup> Precinct command log pages (Board Review 21) reveals that Sgt. Charisse Jenkins (formerly Sgt. Gonzalez) was at the desk when the arrestees arrived at the stationhouse. However, Sgt. Jenkins (Board Review 22) did not recall the incident in question.

Lt. Goldstein, PO Barahona, and PO Robinson each stated that the individuals gathered in the stationhouse waiting area behaved loudly. However, they did not see PO Costello inform any of these individuals that they could or would be arrested, or use profanity toward them. Lt. Goldstein, for his part, stated that he politely told a loud group of juveniles that they needed to leave the stationhouse. He believed that they departed upon his request. PO Commisso, who resumed patrol shortly after transporting § 87(2)(b) to the stationhouse, did not know if a group of civilians

visited the stationhouse, and she did not witness any interaction between PO Costello and any group of civilians in the stationhouse lobby.

According to NYS PL 240.20 (Board Review 23), an individual is guilty of disorderly conduct when he or she makes unreasonable noise with intent to cause public inconvenience, annoyance, or alarm.

§ 87(2)(g)

§ 87(2)(g)

**Allegation I—Abuse of Authority: At the 113th Precinct stationhouse, officers did not obtain medical treatment for § 87(2)(b)**

§ 87(2)(b) stated that between 1:00 PM and 1:30 PM, she received a phone call from an unidentified juvenile, who told her that police officers were arresting § 87(2)(b) near her school. § 87(2)(b) never learned with whom she was speaking. An adult female then said to § 87(2)(b) “§ 87(2)(b) is having a seizure in the back of the car.” In the background, a juvenile yelled that someone “threw” § 87(2)(b) in the back of the car and that she struck her head. § 87(2)(b) also heard juveniles yelling, “You have to take her to the hospital.” § 87(2)(b) asked, “They’re not taking her to the hospital?” Someone said, “I don’t know. We’ll call you back.” § 87(2)(b) asked who was on the phone and a juvenile said only that it had been a teacher. The call then ended.

This was all of the information which § 87(2)(b) received via telephone. She was not familiar with any of the juveniles or the adult with whom she had spoken, and she never learned their identities.

§ 87(2)(b) had been diagnosed with epilepsy at age two and had been on epilepsy medication until eighteen months prior to the incident. She had been taken off of the medication because she had not had a seizure for four years as of the date of the incident in question.

§ 87(2)(b) visited the 113<sup>th</sup> Precinct stationhouse with several family members and her home health aide. They arrived at the stationhouse at approximately 1:30 PM. § 87(2)(b) was already in the juvenile room. Through the open door, § 87(2)(b) asked § 87(2)(b) if she was okay, and she nodded. She did not appear to be seizing at that time and never appeared to seize at the stationhouse. However, she wore a facial expression which § 87(2)(b) recognized from previous seizures. § 87(2)(b) was unable to describe the expression, but it confirmed for her that § 87(2)(b) had had a seizure.

§ 87(2)(b) identified herself to Lt. Goldstein as § 87(2)(b)'s mother. She informed him that she wanted § 87(2)(b) to receive medical attention at a hospital because she had had a seizure. Lt. Goldstein said that to his understanding there was nothing wrong with § 87(2)(b) but that he would look into the matter.

For the next several hours, § 87(2)(b) remained at the stationhouse. Throughout this time she repeatedly expressed to Lt. Goldstein and the other officers present that she wanted § 87(2)(b) to be transported to a hospital. However, § 87(2)(b) remained in the juvenile room for several hours without receiving any medical attention. § 87(2)(b) was upset by this delay.

Finally, at approximately 6:00 PM, PO Robinson informed § 87(2)(b) that an ambulance was en route. EMS personnel arrived at the stationhouse and attended to § 87(2)(b) in the juvenile room. § 87(2)(b) did not have any opportunity to speak with the EMS personnel. The EMTs then transported § 87(2)(b) to § 87(2)(b).

As addressed above, § 87(2)(b) stated that during the course of her arrest she hit her head on an RMP's window frame. Then, when she was placed in the rear of the RMP, a teacher, who might have been named § 87(2)(b) make a remark either about § 87(2)(b) having a seizure or being at risk for seizures. § 87(2)(b) did not remember exactly she said.

§ 87(2)(b) did not know if she was having a seizure at that time. She stated that her memory went blank and that she did not recall being transported to the stationhouse. The last thing she remembered was the police vehicle pulling away from the school.

§ 87(2)(b) stated that the next thing she remembered was sitting on a bench near the desk at the 113<sup>th</sup> Precinct stationhouse with § 87(2)(b) and § 87(2)(b). She had a headache. At the time of her CCRB interview she believed that she had had a seizure, but at the time she did not know what had happened to her. Memory loss was a typical symptom of her seizures, but she did not make this connection at the time. Subsequently, as § 87(2)(b) waited in the juvenile room, she heard her mother yell that she needed to go to a hospital. § 87(2)(b) never told any officer that she needed medical assistance.

Lt. Goldstein, PO Robinson, PO Commisso, and PO Costello stated that they never heard anyone at the scene of the arrest make any mention of § 87(2)(b) having a seizure or seizure condition. Further, Lt. Goldstein, PO Robinson, and PO Commisso, who transported § 87(2)(b) from the scene of her arrest to the stationhouse, each stated that § 87(2)(b) yelled angrily at them throughout her transport to the stationhouse, and that she never appeared to seize, lose consciousness, or suddenly become quiet. These officers and PO Costello, who was § 87(2)(b)'s

arresting officer and who moved in and out of the juvenile room through § 87(2)(b)'s time at the stationhouse, also stated that § 87(2)(b) never exhibited any symptom of epilepsy at the stationhouse.

Lt. Goldstein stated further that soon after § 87(2)(b) arrived at the stationhouse, § 87(2)(b) said that a dean from the school had called to inform her that § 87(2)(b) had had a seizure. Lt. Goldstein explained to § 87(2)(b) that this was not the case and that § 87(2)(b) had not had a seizure. He explained that § 87(2)(b) had tried to escape from his vehicle, but that she had never complained of having a headache or seizure. In response to § 87(2)(b)'s concerns, Lt. Goldstein asked § 87(2)(b) if she had had a seizure. § 87(2)(b) said that she had not. Lt. Goldstein said that he would obtain medical attention for § 87(2)(b) if necessary, but that she had not been injured.

According to Lt. Goldstein, § 87(2)(b) never made any complaint regarding any injury or medical condition. However, § 87(2)(b) repeated that she wanted § 87(2)(b) to visit a hospital due to her history of seizures. Officers called for EMS due to § 87(2)(b)'s concerns, and for no other reason. EMS then responded to the stationhouse and transported § 87(2)(b) to a hospital.

PO Robinson, § 87(2)(b)'s arresting officer, stated that when she informed § 87(2)(b) that § 87(2)(b) would be transported to § 87(2)(b) rather than released from the stationhouse, § 87(2)(b) said that she wanted § 87(2)(b) to visit a hospital due to her history of seizures and because she might have had a seizure. PO Robinson then asked § 87(2)(b) if any she had injury or medical concern, and § 87(2)(b) said multiple times that she did not. Further, she said that she did not want to go to the hospital. § 87(2)(b) had also earlier been asked if she had any injury, prior to her mother expressing any concern. § 87(2)(b) never said that she had had a seizure or had lost consciousness. However, due to her mother's concerns, officers called for § 87(2)(b).

PO Costello also stated that when § 87(2)(b) expressed concern about § 87(2)(b) possibly having had a seizure, he asked § 87(2)(b) if she had had a seizure. She said specifically that she had not.

§ 87(2)(b) stated that while officers were arresting § 87(2)(b) she heard a student in the crowd say that § 87(2)(b) had seizures. § 87(2)(b) did not observe § 87(2)(b) exhibit any behaviors or symptoms indicative of her having a seizure.

Another portion of cell phone video captured § 87(2)(b) placing her upper body through the RMP's window and yelling at the officers, while § 87(2)(b), in glasses, watched from the sidewalk with other school safety agents and students.



2018-05-10\_9-03-06.mp4

Video Clip #3 – 30 seconds

Original video linked to IA #66 (Board Review 02)

In the video clip, § 87(2)(b) utters the word “seizure” at least twice, but the context is unclear. § 87(2)(b) reviewed this portion of video during her CCRB interview. She believed that she was responding to a student who had said, “She has seizures,” and that she repeated the statement as a question: “She has seizures?”

§ 87(2)(b) stated that while § 87(2)(b) was attempting to exit the RMP, she yelled but then became quiet and began to shake. § 87(2)(b) believed that § 87(2)(b) might have been seizing, but she was uncertain. § 87(2)(b) was aware that § 87(2)(b) had a history of seizures but she had never seen § 87(2)(b) seize before. When § 87(2)(b) began to shake, the officers were able to place her in the vehicle. Another student announced that § 87(2)(b) was seizing, but an officer said, “No, she's not.”

§ 87(2)(b) identified § 87(2)(b) as § 87(2)(b), § 87(2)(b). However, § 87(2)(b) (Board Review 24) stated that she was not working on November 13, 2017.

It is unclear who called § 87(2)(b) and reported that § 87(2)(b) was having a seizure. § 87(2)(b)'s phone records revealed the phone number from which the incoming call was placed, but there was no associated address and no one responded to the five voicemail messages which Inv. Ross left between February 20, 2017 and March 2, 2017.

According to § 87(2)(b) said that the individual who informed her of § 87(2)(b)'s arrest had also reported that § 87(2)(b) had had a seizure. However, at the stationhouse, officers brought § 87(2)(b) to the juvenile room doorway so that § 87(2)(b) could see her. Her physical condition appeared normal and she made no mention of any medical concern. When § 87(2)(b) asked § 87(2)(b) if she had had a seizure, § 87(2)(b) said that she had not.

EMT § 87(2)(b) did not recall specifically if anyone at the stationhouse mentioned § 87(2)(b) possibly having had a seizure, although she complained of a headache and may have described memory loss. She did not exhibit any seizure symptoms and stated specifically that she did not want to go to the hospital. Ultimately, according to EMT § 87(2)(b), they transported § 87(2)(b) to a hospital because her parents wanted her to undergo a general physical evaluation.

EMT § 87(2)(b), conversely, stated that § 87(2)(b) shouted to him that § 87(2)(b) had had a seizure. When he asked § 87(2)(b) whether or not this was the case, she said that she did not know. She was alert and oriented, made no complaint of injury, did not describe any loss of consciousness, and did not exhibit any seizure symptoms. However, EMT § 87(2)(b) believed that if she had lost consciousness due to a seizure, she might not remember. When EMT § 87(2)(b) asked § 87(2)(b) s transport officers about whether or not she had had a seizure, they stated that she had been awake and speaking to them throughout her transport. Given this information, EMT § 87(2)(b) came to believe that § 87(2)(b) had received misinformation about § 87(2)(b) having had a seizure. Ultimately, he and his partner transported § 87(2)(b) to a hospital due to § 87(2)(b)'s concerns, and not because they believed § 87(2)(b) had had a seizure. They could not determine whether or not she had had a seizure and brought her to the hospital as a precaution.

The Prehospital Care Report Summary pertaining to the EMT's interaction with § 87(2)(b) reveals that EMS responded to the stationhouse at 5:53 PM. The document reads, "Pt states she has a headache and her mother wants her to get checked out. Pt states she did not hit her head she just has a headache." There is no mention of § 87(2)(b) having had a seizure.

According to medical records from § 87(2)(b) (Privileged Documents), § 87(2)(b) stated to medical staff, "I think I had a seizure on the way to the precinct." § 87(2)(b) also informed medical staff that she had struck her head multiple times during the course of her arrest. Lastly, the medical records state that while the officer present with § 87(2)(b) at the hospital was not present for her arrest, he reported that his fellow officers had witnessed no seizure-like behavior. The medical records do not clearly establish whether or not § 87(2)(b) had a seizure while in police custody. Ultimately, she was prescribed a seizure medication and discharged.

The three officers who transported § 87(2)(b) stated that she yelled throughout transport and never had a seizure. Video evidence confirms that she screamed in protest of her arrest while still on scene. Only § 87(2)(b) stated that she actually saw § 87(2)(b) appear to have a seizure. Further, it is undisputed that § 87(2)(b) exhibited no seizure symptoms at the stationhouse and that she never told anyone at the stationhouse that she needed medical assistance. According to § 87(2)(b) said specifically that she had not had a seizure. Both officers and EMTs stated that she made no medical complaint and specifically did not want to go to a hospital. Further, the EMTs stated that they transported her to a hospital due to mother's concerns and not because they determined that she had had a seizure. At the hospital, § 87(2)(b) complained that she had hit her head. However, she had described no injury to the EMTs, suggesting that this was the first time she claimed to have done so. As established above, § 87(2)(b) was not credible about having attempted to escape from the officers' vehicle, lessening her overall credibility. By contrast, the officers were generally forthcoming about their activities throughout the incident. Most importantly, their testimonies with respect to this allegation were consistent with those of the EMTs.

It is undisputed that § 87(2)(b) remained at the stationhouse for several hours before officers called for an ambulance. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation J—Discourtesy: At § 87(2)(b), Police Officer Tyler Schultz acted discourteously toward § 87(2)(b)**

§ 87(2)(b) stated that at the hospital, when PO Schultz asked her questions, she remained silent. PO Schultz said, “Hey, I’m talking to you.” However, § 87(2)(b) still did not respond. PO Schultz “smacked” § 87(2)(b) lightly on the head. It was not forceful, but § 87(2)(b) believed nonetheless that PO Schultz did not need to touch her.

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which either § 87(2)(b) or § 87(2)(b) has been a party.
- Lt. Goldstein has been a member of service for fourteen years and has been a subject in eleven prior complaints with twenty-four allegations, none of which were substantiated (Board Review 26). § 87(2)(g)
- PO Costello has been a member of service for four years and has been a subject in one prior complaint with two allegations, neither of which were substantiated (Board Review 27). § 87(2)(g)

### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of February 23, 2018, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regards to this complaint (Board Review 28).

§ 87(2)(b) § 87(2)(c)

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_

Signature	Print Title & Name	Date
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Squad Leader: \_\_\_\_\_

	Signature	Print Title & Name	Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date